# Vessels to Which Operational Measures Apply

*Note: This white paper was developed within NOAA Fisheries as supporting documentation to provide explanation into the development of the operational measures in the proposed ship strike strategy. The paper should be considered a working document to be used as a tool for policy analysis and to further understand the origin of proposed measures. Comments on the document are welcomed, and may be sent to aleria.jensen@noaa.gov.*

One of the key determinations to be made in developing the Strategy to Reduce Ship Strikes of Right Whales is the vessels to which the operational measures apply. This involves two considerations: (1) the type of vessels, and (2) the size of such vessels. In making this determination, NOAA Fisheries considered such factors as the manner in which vessels injure or kill right whales, the known sizes of vessels that resulted in the death of a right whale, and existing regulatory requirements applicable to vessels. The agency also took into account that right whale calves as well as adults are at risk from ship strikes. Where necessary, given operational limitations and other factors, the management measures have been tailored to particular vessel types and sizes.

## Vessel Type

Right whales are injured and killed by the physical impact from a ship as well as propeller cuts. Thus, all vessel types pose a threat. NOAA Fisheries, therefore, proposes that the management measures apply to all commercial vessels, including large commercial vessels, fishing vessels, tugs and tows, passenger vessels, and passenger vessels for hire, as well as recreational vessels. It is further recommended that sovereign immune vessels (federal vessels) be exempt from the measures contained in the ship strike reduction strategy, because of operational necessity, those agencies' ongoing efforts to reduce ship strikes, and federal agency responsibility to consult under Section 7 of the Endangered Species Act.

## Vessel Size

In establishing the recommendation for vessel size, NOAA Fisheries examined the known sizes of vessels which resulted in a death of a right whale, the scaring on some of the larger animals which–if it had occurred to a calf–may have been fatal, and other regulatory requirements. The smallest identified ship that resulted in a death of a right whale was 82 feet in length overall; the right whale killed was a calf (Jensen and Silber, 2003; Laist et al., 2001).

Further, the group considered that right whale mother/calf pairs migrate north through the mid-Atlantic migratory corridor to their northern feeding areas. Thus a calf, the smallest and most vulnerable type of individual, can occur in waters anywhere along the U.S. eastern seaboard. The definition of vessel size and vessel type must therefore address

this risk relative to the types of vessels that are used in various locations and at various times.

The example of the 82 foot vessel demonstrates that a vessel of this size poses a known risk of a ship strike which could result in a death of a right whale and thus served as the upper limit on the minimum vessel size to be included in the ship strike reduction strategy. NOAA Fisheries then reviewed various regulatory requirements for vessels and the closest requirement applicable to vessels was 65 feet or 20 meters in length overall. Therefore, the recommendation is for the management measures to apply to all vessels 65 feet in length overall, unless otherwise specifically noted.

The International Navigational Rules Act of 1977 (Public Law 95-75, 91 Stat. 308, or 33 U.S.C. 1601-1608), and the Inland Navigational Rules Act of 1980 (Public Law 96-591, 94 Stat. 3415, 33 U.S.C. 2001-2038) reference “a vessel of less than 20 meters in length”, or 65 feet, in several Rules of the Road sections. The length is a commonly used cut off between a motorboat and a larger vessel. Additionally, the Automated Identification System (AIS) Title 33, CFR 164.46, applies to self-propelled vessels of 65 feet or more in length. An approved AIS must be installed on board specified vessel types on or before 31 December 2004. The proposed Strategy to Reduce Ship Strikes of Right Whales vessel size in consistent with the above rules.

Literature Cited

Jensen, A.S. and G.K. Silber. 2003. Large whale ship strike database. NOAA Technical Memorandum NMFS-OPR-25.

Laist, D.W., A.R. Knowlton, J.G. Mead, A.S. Collet and M. Podesta. 2001. Collisions between ships and whales. Marine Mammal Science, 17(1): 35-75.